

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

NICHOLAS C.,

Plaintiff,

v.

6:23-cv-0838
(GTS/CFH)

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

APPEARANCES:

OFFICE OF PETER W. ANTONOWICZ
Counsel for Plaintiff
148 West Dominick Street
Rome, NY 13440

SOCIAL SECURITY ADMINISTRATION
Counsel for Defendant
Office of the General Counsel
6401 Security Boulevard
Baltimore, MD 21235

OF COUNSEL:

PETER W. ANTONOWICZ, ESQ.

JASON P. PECK, ESQ.

HON. GLENN T. SUDDABY, United States District Judge¹

DECISION & ORDER

Plaintiff filed this action pursuant to 42 U.S.C. § 405(g), seeking review of the decision of the Defendant, the Commissioner of Social Security, denying his application for disability insurance benefits (“DIB”) and supplemental security income benefits (“SSI”). The Court

¹ The Hon. Thomas J. McAvoy originally presided over this matter. The case has since been reassigned to the undersigned.

referred the matter to the Hon. Christian F. Hummel, United States Magistrate Judge, for a Report-Recommendation pursuant to 28 U.S.C. § 636(b) and Local Rule 72.3(c).

Magistrate Judge Hummel's Report-Recommendation, issued on August 30, 2024, recommends that the Court grant Defendants' motion for judgment on the pleadings, deny Plaintiff's motion for judgment on the pleadings, and affirm the Commissioner's judgment. In that Report-Recommendation, Magistrate Judge Hummel finds that substantial evidence supports the Commissioner's conclusion that Plaintiff is not entitled to SSI or DIB benefits, and further concludes that the ALJ did not err in considering additional evidence submitted to the Social Security Appeals Council or in evaluating the opinion evidence, and correctly analyzed lay testimony regarding Plaintiff's limitations. (Dkt. No. 17.)

No party objected to the Report-Recommendation. The time for such objections has passed. After examining the record, this Court has determined that the Report-Recommendation is not subject to attack for plain error or manifest injustice and the Court will accept and adopt the Report-Recommendation for the reasons stated therein.²

ACCORDINGLY, it is

ORDERED that the Report-Recommendation (Dkt. No. 17) is ACCEPTED and ADOPTED in its entirety; and it is further

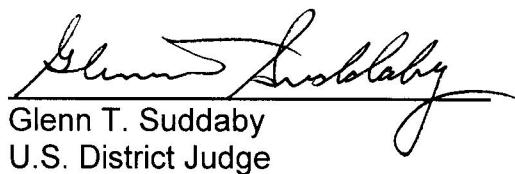
² When no objection is made to a report-recommendation, the Court subjects that report-recommendation to only a clear-error review. Fed. R. Civ. P. 72(b), Advisory Committee Notes: 1983 Addition. When performing such a clear-error review, “the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” *Id.*; see also *Batista v. Walker*, 94-CV-2826, 1995 WL 453299, at *1 (S.D.N.Y. July 31, 1995) (Sotomayor, J.) (“I am permitted to adopt those sections of [a magistrate judge’s] report to which no specific objection is made, so long as those sections are not facially erroneous.”) (internal quotation marks omitted).

ORDERED that Defendant's motion for judgment on the pleadings (Dkt. No. 15) is **GRANTED**; and it is further

ORDERED that Plaintiff's motion for judgment on the pleadings (Dkt. No. 14) is **DENIED**; and it is further

ORDERED that the Commissioner's judgment is **AFFIRMED** and Plaintiff's Complaint (Dkt No. 1) is **DISMISSED**.

Dated: September 30, 2024
Syracuse, New York



Glenn T. Suddaby
U.S. District Judge